

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

**FILED**

AUG 31 2020

CLERK, U.S. DISTRICT COURT  
By *[Signature]*  
Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

CURTIS JAMES McGUIRE,

Petitioner,

v.

2:17-CV-171-Z-BR

DIRECTOR, TDCJ-CID,

Respondent.

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**ORDER ADOPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION  
AND  
DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

This matter comes before the Court on Petitioner's Writ of Habeas Corpus, filed September 5, 2017 (ECF No. 3) ("Petition"). Petitioner is serving concurrent terms of incarceration in TDCJ's Stiles Unit for the aggravated sexual assault and later sexual assault of his minor stepdaughter.<sup>1</sup> More than two years after his guilty plea, he filed his Petition with the Court, alleging (1) violation of his confrontation and due process rights; (2) *Brady* violations; (3) procedural defects in his state habeas corpus proceedings; and (4) involuntariness of his plea. See Petition §§ 20(a)-(d), at 6–7. The United States Magistrate Judge assigned to this case found the allegations time-barred and not entitled to statutory or equitable tolling under 28 U.S.C. § 2244(d). See ECF No. 62 § X(1)–(2), at 25 ("FCR"). She further found Petitioner has not demonstrated his actual innocence of the offenses of conviction, so she recommended the Court DENY the Petition. See *id.* at 25. Petitioner did not file any objections to the FCR.

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<sup>1</sup> See ECF No. 26-14, at 219; ECF No. 27-7, at 92; ECF No. 26-12, at 95–97; Texas Dep't of Crim. J., Offender Information Details: Curtis James McGuire, <https://offender.tdcj.texas.gov/OffenderSearch/offenderDetail.action?sid=08690279> (last visited Aug. 31, 2020).

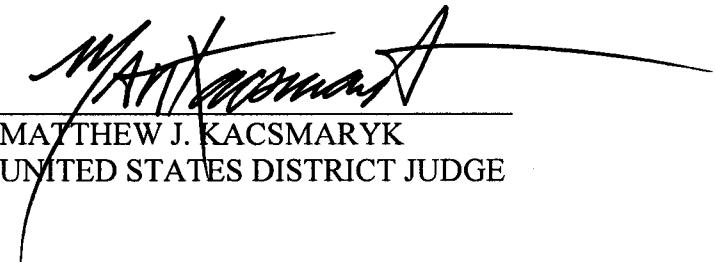
After making an independent review of the pleadings, files, and records in this case, the Court concludes the findings, conclusions, and recommendation of the United States Magistrate Judge are correct. The Court therefore ORDERS (1) the findings, conclusions, and recommendation of the United States Magistrate Judge in ECF No. 62 are ADOPTED; and (2) the Petition for a Writ of Habeas Corpus is DENIED.

Considering the record and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court also DENIES a certificate of appealability because Petitioner has failed to make “a substantial showing of the denial of a constitutional right.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011). The Court ADOPTS the United States Magistrate Judge’s FCR in support of its finding Petitioner has failed to show reasonable jurists would find (1) the Court’s “assessment of the constitutional claims debatable or wrong;” or (2) “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this Court] was correct in its procedural ruling.” *Slack*, 529 U.S. at 484.

If Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

**SO ORDERED.**

August 31, 2020.

  
MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE